

MINUTES
REGULAR CITY COUNCIL MEETING
CITY COUNCIL OF THE CITY OF YUMA, ARIZONA
CITY COUNCIL CHAMBERS, YUMA CITY HALL
ONE CITY PLAZA, YUMA, ARIZONA

May 19, 2010

5:30 p.m.

CALL TO ORDER

Mayor Krieger called the City Council meeting to order.

INVOCATION/PLEDGE

Paul Killingsworth, Pastor of the First Assembly of God, gave the invocation. Deputy City Clerk, **Lynda Bushong**, led the City Council in the pledge of allegiance.

ROLL CALL

Councilmembers Present:	Stuart, Mendoza, Beeson, McClendon, Brooks-Gurrola, Johnson and Mayor Krieger
Councilmembers Absent:	none
Staffmembers Present:	City Administrator, Gregory K. Wilkinson Director of Engineering, Paul E. Brooberg City Attorney, Steven W. Moore Finance Director, Pat Wicks CIP Administrator, Ana Lugo Various Department Heads or their representative Deputy City Clerk, Lynda L. Bushong

FINAL CALL

Mayor Krieger made a final call for the submission of Speaker Request Forms from members of the audience.

PRESENTATIONS

Mayor Krieger announced that the City Clerk, Brigitta Kuiper, has resigned to take a position with the City of Tempe. He commended on her years of services and presented her with an engraved crystal bowl for her dedicated leadership and service.

I. CALL TO THE PUBLIC

Ann Harrison, 2747 Mesa Avenue, commended the City Council for its dedication to local youth and for listening to the public's view on issues. She requested the City Council to encourage developers to consider redeveloping existing vacant buildings rather than expanding the City limits. Also, the City of Yuma is older than the State of Arizona and is the gateway to the West. Yuma's centennial is fast approaching; now is the time for the community to begin focusing efforts on commemorating the event. Lastly, downtown Yuma has survived many challenges to its existence; it holds many memories for the community. She urged the City Council to continue to focus interest on the area.

Wilkinson noted various vacant buildings located on 32nd Street:

- The former K-Mart building is owned by the Cocopah Tribe
- Leases are being considered for the former Mervyn's building and the former Target building.

Kevin Lowe, 2673 S. Avenue A, a representative of Southern Arizona Association for the Visually Impaired (SAAVI), introduced the non-profit organization to the City Council, stating it is a new organization dedicated to helping the visually impaired throughout the region become productive citizens. YCAT and Dial-a-Ride provide the services necessary for the visually impaired to shop locally, maintain jobs, and get medical care; without public transit, those who do not drive will be at a serious disadvantage. He urged the City Council to reconsider its funding of these Yuma Metropolitan Planning Organization (YMPO) transportation services.

Jack Kretzer, 761 W. Queens Place, stated that the only beneficiaries of the new State sales tax passed yesterday are schools, health and human services and public safety. The City of Yuma voters passed the 2% Hospitality Tax two years ago in a ballot measure that states precisely how the funds are to be spent, making it a voter-protected tax. The City is spending the money on unauthorized uses: An annual payment to Craig Clark and more than the specified amounts on the Pivot Point project and tourism.

Elgin Everly, 2031 Javelina, drew attention to the street and drainage issues being experienced by residents of Del Oro Estates; these issues have been ongoing for years. New developments, around the subdivision and further down the trunk lines, have worsened their drainage problems, all the while staff has been telling them their drainage problems would get fixed when the streets are rebuilt. Yet, the street rebuild project is continually delayed. Although the City Council has new members, the same staff remains. He urged the City Council to rethink what it allows staff to do to keep the community's trust. The City Council should prioritize every dollar and ensure the monies 2% Hospitality Tax revenues are spent as voters authorized.

Angelo Lemme, 270 E. 26th Place, stated the City's barking dog guidelines are too stringent. Dogs bark for many reasons, such as intrusion into their property, a doorbell, whistles blowing, people on the sidewalk or kids playing; circumstances should be taken into consideration with each complaint. Some people are too quick to report barking dogs. He urged the City Council to review its current ordinance and allow for more tolerance. **Wilkinson** noted that the City is currently reviewing its animal control ordinance.

II. MOTION CONSENT AGENDA

Motion (Beeson/Mendoza): To adopt the Motion Consent Agenda as recommended. Voice vote: **approved** 7-0.

A. Approval of minutes of the following City Council meetings:

Regular City Council Meeting
Regular Worksession

February 3, 2010
February 16, 2010

B. Approval of Staff Recommendations:

1. Executive Sessions may be held at the next regularly scheduled Special Worksession, Regular Worksession and City Council Meeting for personnel, legal, litigation and real estate matters pursuant to A.R.S. § 38-431.03 Section A (1), (3), (4), and (7). (Attny)
2. Approve a Special Event Liquor License application submitted by Carolyn Bennett, on behalf of the Yuma Fine Arts Association, for a Summer Beerfest. The fundraiser will be held Friday, June

- 4, 2010, at the Yuma Art Center, 254 S. Main Street, from 6:00 p.m. to 9:00 p.m. (SP10-09) (Admin/Clerk)
3. Approve a New #12, Restaurant, New Liquor License application submitted by Sandra Patricia Cruz, agent for Wild Stix, LLC dba Wild Stix, 414 W. 16th Street, Yuma, Arizona. (LL10-07) (Admin/Clerk)
 4. Approve an Interim Permit/Person Transfer #6, Bar, New Liquor License application submitted by Ronald Paul Craven, agent for RND Enterprises, Inc. dba Pop-A-Top Saloon, 2241 S. Avenue A, Yuma, Arizona. (LL10-08) (Admin/Clerk)
 5. Award to the lowest responsive/responsible bidder for Avenue 6E Sanitary Sewer Interceptor Extension at a total cost of \$275,128.70 to Yuma Valley Contractors Corp., Yuma, Arizona. (Bid #2010000370) (Eng)
 6. Authorize Staff to purchase a Communication/Crisis Negotiations Vehicle for use by the Police Department utilizing a cooperative purchase agreement with the General Services Administration (GSA) at a total cost of \$180,376.52, utilizing funds from the Operation Stone Garden Grant (OPSG) with the following firm: Braun Northwest Inc., Chehalis, Washington. (#2010000416) (PD/Fleet Svc)
 7. Reject all proposals received and extend the existing contract with Willis of Arizona, Inc., Phoenix, Arizona. (Bid # 2010000275) (Risk Mgmt)
 8. Ratify and approve a contract increase in the amount of \$682,967.99, to Purchase Order No. 090733, with Grey Mountain Construction, LLC. (Bid # 2009000197) (Eng)

III. RESOLUTION CONSENT AGENDA

The City Council discussed Resolutions R2010-28 and R2010-19 jointly and R2010-30 separately, prior to taking action on the Resolution Consent Agenda as a whole.

Resolution R2010-28: Grant application for \$750,000 in Transportation Enhancement Grant Funds for the development and installation of a multi-use pathway along the West Main Canal. (Capital Improvement Program proposed budget, Project No. 5.9622; local match: \$60,000)

Resolution R2010-29: Grant Application for \$750,000 in Transportation Enhancement Grant Funds for the development and installation of a wayfinding system at the Giss Parkway Downtown East Entrance. (Capital Improvement Program project proposed budget, Project No. 1.1103; local match: \$190,000)

McClendon noted the staff report for R2010-29 indicates \$190,000 of the 2% Hospitality Tax will be spread over two years as the local match for the R2010-29 project; is the funding designated through the Heritage Area? **Wilkinson:** The voters approved a minimum allocation of \$600,000 to the Heritage Area; if additional revenues are received, more funds can be allocated to Heritage Area uses. The Yuma City Charter provisions do not breakdown the Heritage Area allocation any further than the specified minimum

allocation. The draft budget outlines how the \$600,000 in 2% Hospitality Tax revenues are proposed to be spent. The proposed Capital Improvement Program (CIP) Budget includes these two projects; their local matches are found in the CIP budget under their respective project numbers: Project No. 5.9622 and Project No. 1.1103.

Johnson stated that these applications are for Transportation Enhancement Grants and there is no guarantee the City will be awarded the grants and receive the funding. It is a competitive process and deadlines must be met or the applications will not be considered. **Wilkinson:** These resolutions are being brought forward because the application submission deadlines are approaching.

Speaker

Concerning both resolutions, **Jack Kretzer**, 761 W. Queens Place, stated that the City has estimated 2% Hospitality Tax revenues at \$3.5 million. If, per the voter-protected allocations, \$2.5 million goes to Parks and Recreation, \$600,000 to the Riverfront and \$400,000 to tourism, there will be no money left to make the local match. And, if \$2.5 million is going to Parks and Recreation, why is Marcus Pool being closed? Spend 2% tax money on parks and recreation before spending it on the Riverfront. Don't snub the Yuma HEAT swimmers; they helped get the 2% tax renewed. The match for the wayfinding system shouldn't come from 2% money because Giss Parkway/Interstate 8 aren't part of the Heritage Area. These two resolutions don't spend 2% money the way voters authorized.

McClendon noted that the R2010-28 project does not involve 2% funding. **Brooberg** stated that the source of funding for West Main Canal Pathway project is undesignated; the money will likely be taken from other FY2011 CIP projects. Typically, funding for canal pathway enhancements local matches come from the City's Road Tax. This project is not eligible for 2% Hospitality Taxes because it is located outside the boundaries of the Downtown Riverfront area; it is designated as a Road Project. 2% Hospitality Tax monies are being used to fund the R2010-29 project.

Beeson asked if the expenditures specified in Resolutions R2010-28 and R2010-29 are in compliance with Yuma City Charter provisions. **Moore:** Yes.

Stuart stated that as he understands it, the funding for R2010-28 will fall into next fiscal year's budget and the funding for R2010-29 will be spread over FY2011 and FY2012 budgets. **Brooberg:** Yes.

Resolution R2010-30: Issuance of Bonds – City of Yuma Municipal Property Corporation Municipal Facilities Revenue Refunding Bonds

Wicks stated Resolution R2010-30 will allow the City to issue new bonds to pay off existing bond debt, in effect, refinancing (refunding) current bonds. The proposed bond issuance will pay off the 2001 Municipal Property Corporation bonds used to build City Hall. The new bonds will carry lower interest rates.

Tom Hocking, TL Hocking and Associates, explained that the objective of the resolution is to refinance the debt issued by MPC. Proceeds will not be used to pay for new projects; proceeds will pay off current debt. Because interest rates have fallen to such low levels, staff wanted to take advantage of the cost savings reduced interest rates would afford. However, in considering which bonds to refinance, staff determined that a threshold of 3% savings should be the criteria. In the case of the MPC bonds, the savings will amount

to 7.5%, which will equate to \$2 million. It should be noted that the resolution gives Wicks the authority to proceed with the transaction without direct approval of the City Council within certain perimeters, one of which is the size of the issuance. Although the debt to be refinanced is \$28 million, Wicks will not be allowed to issue any more than \$60 million, giving him certain flexibility. The City's current outstanding debt is \$65 million, but staff is only looking to refinance those that would give the greatest savings. Also, the emergency clause is being included because a successful refinancing is very dependent on market conditions. The City needs to be able to move into the market within the next 30 days to take advantage of the current low interest rates. Staff hopes to complete transaction prior to the end of the fiscal year.

Beeson asked if there is a limit to the number of times a bond can be refinanced. **Hocking:** Bonds can be refinanced as many times as you'd like, unless they are advanced refundings, which means they have not passed their call period, typically ten years. This refinancing will be the first time the City has refinanced the 2001 MPC bonds.

McClendon stated that including the emergency clause gives staff the benefit of acting quickly when the interest rates are low; is this correct? **Hocking:** Once the resolution is adopted with the emergency clause it becomes effective immediately. Staff can then monitor the market and immediately take advantage of the lowest rates. Without the emergency clause, the resolution will not be effective for 30 days. Given market fluctuations, it is to the benefit of the City to be able to take advantage of savings right away. Waiting a month could result in higher interest rates.

Speakers

Jack Kretzer, 761 W. Queens Place, alleged that in 2001, the City Council fraudulently added the emergency clause to the bond issuance resolution because the City sold the bonds before they were approved. Councilmember Hieb, at the time, said the emergency clause was to protect the fiscal welfare of the City. The Yuma City Charter allows a 30-day period prior to a resolution becoming effective to allow for the expression of opposition. In talking to Hocking after today's MPC meeting, Hocking indicated that placing the bonds would take some two weeks. The last bonds the City sold were sold some 42 days after the resolution approving the sale, even though the resolution carried the emergency clause. It is not the saving of money that is objectionable, but the use of the emergency clause when this is not a true emergency. The City Council should follow federal, state and local laws.

Mayor Krieger asked how including the emergency clause could be harmful. **Kretzer:** It eliminates the ability of a person to challenge the resolution.

Johnson: Is this a lawful use of the emergency clause? **Moore:** Yes. The emergency clause is used regularly in many major Arizona communities. However, City staff recognizes that the Yuma community has concerns about the use of the emergency clause and, therefore, uses it only when it is important to the health, safety and welfare of the community, including the fiscal integrity of the City.

Motion (Stuart/Beeson): To approve the Resolution Consent Agenda as recommended.

Bushong displayed the following titles:

Resolution R2010-28

A resolution of the City Council of the City of Yuma, Arizona, authorizing the submission of an application and execution of a participant agreement for Arizona Department of Transportation Enhancement Grant Funds for development and installation of multi-use pathway along the West Main Canal
(Admin/YCNHA)

Resolution R2010-29

A resolution of the City Council of the City of Yuma, Arizona, authorizing the submission of an application and execution of a participant agreement for Arizona Department of Transportation Enhancement Grant Funds for development and installation of Giss Parkway downtown entrance enhancement
(Admin/YCNHA)

Resolution R2010-30

A resolution of the City Council of the City of Yuma, Arizona, authorizing the execution and delivery of a Series 2010 Ground Lease, a Series 2010 City Lease and a Continuing Disclosure Undertaking; approving the execution and delivery by City of Yuma Municipal Property Corporation of such Series 2010 Ground Lease, such Series 2010 City Lease and a Series 2010 Supplemental Trust Indenture; approving an official statement; approving the issuance of not to exceed \$60,000,000 aggregate principal amount of City of Yuma Municipal Property Corporation Municipal Facilities Revenue Refunding Bonds, Series 2010B; delegating to the Finance Director of the City of Yuma, Arizona, the authority to determine various terms with respect to such Series 2010B bonds; providing for the transfer of certain moneys for the payment thereof and making certain covenants and agreements with respect thereto; authorizing the taking of all other actions necessary to the consummation of the transactions contemplated by this resolution and declaring an emergency
(Finance/Admin)

Roll call vote: **adopted** 7-0.

IV. ADOPTION OF ORDINANCES CONSENT AGENDA

Ordinance O2010-28 Lease Agreement: First Amendment to Yuma Riverfront Development First Phase Land and Improvements Lease

Speaker

Jack Kretzer, 761 W. Queens Place, stated that Craig Clark, a California resident, has been given a franchise on the Riverfront through Delaware Corporation, which does not disclose the members of the corporation. The City annually pays \$440,200 to Clark, in violation of the gift clause of the Arizona Constitution - something the City of Phoenix tried to do and lost in a court case filed by the Goldwater Institute. How long will these payments continue and what will become of the Riverfront when Clark receives his last payment? There's no guarantee anything further will get done on the Riverfront once Clark leaves. To date, City money has paid for street improvements and Pivot Point. The City gave him the land for free. There was an issue with local vendors being paid when the hotel was built, though Clark blamed it on bankrupt banks. Rumor has it that the \$440,200 payment ends up in a local's pocket.

Moore stated that the payments to Clark do not violate the Federal or State Constitutions; they are legitimate per the gift and loan clause of the Arizona State Constitution. Kretzer was referring to the City North case in Phoenix. The ruling of the court was prospective, meaning that the contracts were allowed to stand. When a city grants incentives to a developer, it must be able to show that equal or greater revenues accrue directly to the city, not just the local economy.

Motion (McClendon/Mendoza): To adopt the Ordinance Consent Agenda as recommended.

Bushong displayed the following titles:

Ordinance O2010-24

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that certain easement parcels of real property, hereinafter described, be acquired by the City of Yuma, by gift, purchase or under the power of eminent domain, for the reason that such property is required to improve the public utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of said parcels of real property

(Easement right-of-way Acquisition: 8th Street) (Eng)

Ordinance O2010-25

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that a certain parcel of real property, hereinafter described, be acquired by the City of Yuma, by easement for the reason that such property is required to improve the public utility infrastructure and other public purposes as may be related thereto, and authorizing payment therefor, together with costs necessary for the acquisition of an easement for said parcel of real property

(Avenue 3³/₄E Utility Easement right-of-way) (Eng)

Ordinance O2010-26

An ordinance of the City Council of the City of Yuma, Arizona, authorizing and directing that certain easements, hereinafter described, be conveyed to Arizona Public Service Company by the City of Yuma, for the reason that such easements are required for the development, operation and maintenance of the Fire Department Training Facility

(Conveyance of easements) Eng)

Ordinance O2010-27

An ordinance of the City Council of the City of Yuma, Arizona, declaring a certain parcel of real property, hereinafter described, surplus for use by the City and authorizing its sale and conveyance to the United States General Services Administration for the purpose of construction of a Federal Courthouse

(Eng)

Ordinance O2010-28

An ordinance of the City Council of the City of Yuma, Arizona to adopt the First Amendment to Yuma Riverfront Development First Phase Land and Improvements Lease between the City of Yuma and Clark-Lankford, L.L.C. for certain parcels of real property, hereinafter described, for the reason that such property transaction is necessary for the redevelopment of the Riverfront of the City of Yuma and authorizing payment of costs necessary for the lease of said parcels of real property and improvements and authorizing the City Administrator to execute all necessary documents regarding said real property transaction

(Admin/YCNHA)

Roll call vote: **adopted** 7-0.

V. INTRODUCTION OF ORDINANCES - none

VI. PUBLIC HEARINGS

Draft FY2011 – FY2020 City of Yuma Capital Improvement Program – Public hearing on the Draft FY 2011- FY 210 Capital Improvement Program (CIP) pursuant to the Yuma City Charter, Article XIII, Section 11. (Eng)

Mayor Krieger opened the public hearing at 6:50 p.m.

Lugo outlined the schedule that the ten-year CIP Budget follows each year in preparation for its adoption by the City Council. She presented a chart comparing the five-year CIP totals and the 10-year CIP totals, noting that the CIP became a 10-year program in 2006. She presented additional information, as follows:

Capital Budget Comparison – Year One totals

FY2001: \$37 million	FY2007: \$302 million
FY2002: \$84 million	FY2008: \$285 million
FY2003: \$93 million	FY2009: \$162 million
FY2004: \$142 million	FY2010: \$94 million
FY2005: \$189 million	Proposed FY2011: \$88 million
FY2006: \$183 million	

Revenue Breakdown	
Grants	30%
Development fees	3%
Developer deposits	1%
Road Tax	3%
CDBG	0%
Bond – general	3%
Bond-transportation	11%
Bond-utility	13%
Water utility	4%
2% Hospitality Tax	2%
STP	0%
Sewer capacity charges	6%
Pro-rata	3%
Other	19%

Expenditure Breakdown		
Bond	\$27,901,800	31.84%
City Road Tax	2,144,000	2.45%
CDBG	174,898	0.20%
Developer Deposits	835,000	0.95%
Development Fee	4,338,500	4.95%
General Fund	0	0.0%
Grant Funds	23,672,975	27.01%
HURF/LTAF	0	0.0%
Improvement District	0	0.0%
Other	15,407,713	17.58%
Pro-Rata Fees	2,377,963	2.71%
Public Safety Tax Fund	0	0.0%
Recreation Complex	0	0.0%
Sewer Interceptor	0	0.0%
Sewer Capacity	5,140,000	5.87%
Sewer Utility Fund	0	0.0%
Surface Transportation Program	225,000	0.26%
Two Percent Tax	1,854,000	2.12%
Water Utility	3,560,500	4.06%
Total	\$87,632,349	100%

CIP project prioritization criteria

1. Rollovers from the previous year
 - Projects that may not be finished within one year of construction or design
2. Core projects
3. Cascading projects
 - Park facility maintenance
 - Manhole rehabilitation and upgrading
 - Upgrading and replace of waterlines
 - Right-of-way acquisitions
4. Other projects, where funding is available

Johnson noted that the presentation does not include the average daily traffic counts on roadway segments, which would be beneficial to the City Council. In the future, could the current YMPO traffic count map data be included in the Transportation portion of the CIP document? **Lugo**: Staff will see to adding the information.

Speakers

Jack Kretzer, 761 W. Queens Place, suggested that the actual project sheets from the CIP Budget document be displayed in future CIP presentations. **Wilkinson** stated that a copy of the Preliminary CIP Budget is in the Clerk's Office.

Motion (Mendoza/McClendon): To close the Public Hearing. Voice vote: **adopted** 7-0; the public hearing closed at 7:01 p.m.

VII. APPOINTMENTS, ANNOUNCEMENTS AND SCHEDULING

Motion (McClendon/Mendoza): To (re)appoint Brian Ewing to the Yuma County Library District Board with a term to expire July 1, 2013. Voice vote: **adopted** 7-0.

Motion (McClendon/Brooks-Gurrola): To approve the appointment of Edna M. Martin as Deputy City Clerk. Voice vote: **adopted** 7-0.

Beeson reported on a meeting of the Citizens Action Committee focusing on the F-35 Strike Fighter. He encouraged residents to attend and voice their opinions and support at a public meeting on June 17, 2010 at Gila Vista Junior High. Also, he reported on a Teen Challenge Banquet, an substance-abuse assistance event held by a faith-based organization, and a meeting of the Regional Center for Border Health where the discussion centered on a program to clean up the border. He asked that Amanda Aguirre, President of the center, be allowed to present information to the City Council on the project and its accomplishment.

McClendon reported on a musical presentation she, Johnson and Mayor Krieger attended at C.W. McGraw Elementary School. She also reported on a Law Enforcement Memorial event held at the Crossing Park.

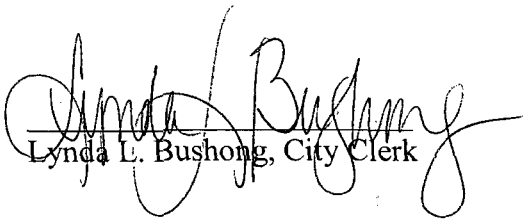
Mayor Krieger reported he will be attending the upcoming Agro-Business Summit.

VIII. SUMMARY OF CURRENT EVENTS

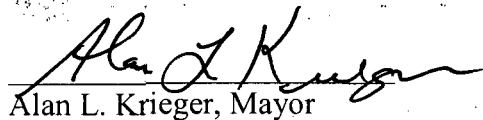
Wilkinson commended Randy Crist, Building Official and the Code Enforcement team for their efforts after finding an underground tunnel beneath a home. The teamwork between the City and Federal official was excellent. Secondly, the Yuma Police Department's graffiti enforcement has resulted in the arrest of a suspect on numerous counts of graffiti throughout the City. Lastly, a meeting with the new director of the Yuma Visitors Bureau's (YVB) produced a lot of good ideas; staff looks forward to working with the YVB.

IX. EXECUTIVE SESSION/ADJOURNMENT

There being no further business, **Mayor Krieger** adjourned the meeting at 7:10 p.m. No Executive Session was held.


Lynda L. Bushong, City Clerk

APPROVED:


Alan L. Krieger, Mayor

Approved at the City Council Meeting of: <u>September 1, 2010</u>
City Clerk: 